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Letter dated 11 March 2005 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

The Governing Council of the United Nations Compensation Commission has concluded its fifty-fifth session, which was held in Geneva from 8 to 10 March 2005.

During the opening plenary meeting, representatives of Kuwait and Iraq addressed the Council. Their statements are being sent by mail with the original of this letter.

During the session, the Council considered five reports and recommendations concerning the special instalment of deceased detainee claims; the late-filed category A and C claims programme; the fourth instalment of Palestinian category C late claims; the thirtieth instalment of category E4 claims; and the fourth instalment of overlapping claims. The first two reports, by the D1 Panel of Commissioners, are concerned with (a) the review of claims of deceased detainees filed pursuant to Governing Council decision 12 and (b) the review of late claims accepted for filing by the Governing Council at its fifty-first session from the Governments of the Islamic Republic of Iran, Pakistan, the Philippines and Sri Lanka. The Palestinian late-claims report is concerned with the fourth instalment of Palestinian category C individual claims for damages up to $100,000; the category E4 report is concerned predominantly with stand-alone claims, pursuant to Governing Council decision 123, and one category E2 claim; and the overlap report is concerned with adjustments to four earlier category E4 awards. The attached tables (see annex I) provide details of the amounts of compensation claimed in the reports and the amounts awarded by the Governing Council, with the exception of the report concerning the fourth instalment of overlapping claims, which contains adjustments to previous awards only. The total amount awarded in all of the reports approved at this session is $265,472,128.47.

The payments with respect to the four claimant Governments under the late-filed category A and C claims programme will be made available subject to the withholding of amounts proportional to the number of previously awarded category A and C claims for which potential duplicate awards have been identified. The Council recommended that the identification of the potential duplicate awards in categories A and C be conveyed to the claimant Governments by the secretariat, and that such withheld amounts be released upon the claimant Governments'

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providing the Governing Council with satisfactory confirmation of non-duplication, or the return of funds attributable to confirmed duplicates.

The Governing Council considered and took note of the report of the Executive Secretary providing a summary of activities, covering the period from 1 November 2004 to 31 January 2005, and the information note prepared by the secretariat containing an update of the report. The report covers the processing of claims, the withdrawal of claims and the payment of approved claims. The Council raised a number of questions in relation to the report, which were answered by the secretariat.

The Council discussed the arrangements for ensuring that payments are made into the Compensation Fund in the light of information provided by the secretariat. The Council requested the secretariat to continue its efforts to obtain further information on this issue from the Government of Iraq, to also obtain information from the Controller of the United Nations concerning this matter and to provide an update at the next session.

The Council reviewed several issues relating to the processing and payment of claims, including the twenty-ninth report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure, and approved corrections to certain category A, C, D and C Palestinian late claims.

After considering the issue of duplication of awards for competing claims, the Council requested the secretariat to provide an information note for the Working Group's consideration at an informal meeting and kept this matter on its agenda for the next session. The Council also decided that the approach adopted with respect to payment of awards to four Governments that are receiving funds in accordance with the Governing Council decision regarding the report and recommendations of the D1 Panel of Commissioners concerning the late-filed category A and C claims programme should be applied to other Governments in similar situations in the future.

The Council considered a number of issues relating to the category F4 environmental claims. After hearing an update from the secretariat concerning the current status and the amendment of the claims, the Council took note of the information provided.

The Government of Iraq made a request, concerning the compensability of interim environmental damages and the valuation of public health impacts, by way of a note verbale and accompanying letter dated 16 August 2004, and during the presentations made by the delegation of Iraq at the opening meetings of the fifty-third and fifty-fourth sessions. After further considering this matter the Council noted that the F4 Panel of Commissioners will address these issues in its report and recommendations concerning the fifth instalment of F4 claims, and decided to consider this issue in conjunction with that report at the fifty-sixth session.

The Council continued to consider the issue of the potential of some public availability of the environmental monitoring and assessment databank maintained by the United Nations Environment Programme (UNEP), which comprises information submitted by claimant Governments, in the light of two information notes prepared by the secretariat, dated 20 September and 2 December 2004, and the meeting held with a delegation from UNEP on 26 January 2005. The Council requested the secretariat to provide an update on this issue following the meeting of

claimant Governments and the Government of Iraq that is scheduled to be held in Kuwait in April 2005, under the auspices of the Compensation Commission secretariat and with the possible participation of UNEP.

The Council continued to consider the issue of the non-use of the full amount of compensation awarded in the completion of the monitoring and assessment projects of the Government of Jordan and others, in the light of an information note prepared by the secretariat dated 2 December 2004 and the eighth report of the F4 Panel of Commissioners concerning the tracking progress of environmental monitoring and assessment projects compensated pursuant to Governing Council decision 132. The Council referred the issues raised in the eighth report of the F4 Panel to a future informal meeting of the Working Group and decided to keep this matter on its agenda.

Finally, the Council continued its consideration of the monitoring of the use of compensation awards and noted that, as suggested in the joint statement of the Governments of Kuwait and Saudi Arabia dated 17 January 2005, a meeting of claimant Governments and the Government of Iraq is scheduled to be held in Kuwait in April 2005 to further discuss the proposals made in the joint statement, under the auspices of the Compensation Commission secretariat and with the possible participation of UNEP. The Council requested the secretariat to provide a briefing on the outcome of the meeting at a future informal meeting of the Working Group, and kept this issue on its agenda.

The Council continued to consider whether the special heading of loss, set out in Governing Council decision 218, should apply to 10 claims of deceased persons found to be eligible for filing by the D1 Panel of Commissioners pursuant to decision 12, in the light of two information notes prepared by the secretariat on this issue, dated 15 October 2004 and 4 February 2005, and the information provided by the two claimant Governments. The Council adopted decision 244 (S/AC.26/Dec.244 (2005)), which applies the provisions of decision 218 to 9 of the 10 deceased detainee claims.

The Council heard a presentation by the secretariat concerning the current status of the claims of the bedoun and took note of the information provided.

Following its consideration of the report of the Executive Secretary on the distribution of payments and transparency, and the return of undistributed funds, the Council took note of the report and requested the secretariat to continue to inform the Council regarding the reports of Governments and international organizations on the distribution of payments and the return of undistributed funds.

The Council also further considered five payment-related issues. With respect to the exchange rates used for claims payment by the Government of Bangladesh, the Council further considered two information notes prepared by the secretariat, dated 15 October 2004 and 2 March 2005, and the letter from the President of the Governing Council to the Government of Bangladesh, dated 23 December 2004, conveying the Council's position that Governments should not deduct more than the 1.5 per cent fee for the payment of individual claims, as stated in Governing Council decision 18. The Council requested the secretariat to write to the Permanent Mission of Bangladesh to invite a delegation from the Government of Bangladesh to attend a future informal meeting of the Working Group to discuss this issue, and to reiterate in the correspondence the importance that the Council attaches to compliance with

the provisions of decision 48, and the practice of withholding payments in cases of non-compliance with the requirements of decisions 18 and 48.

The Council considered the Government of Egypt's non-compliance with respect to details in its payment distribution reports in the light of an updated information note prepared by the secretariat, dated 10 November 2004, and the discussions held with the delegation from the Government of Egypt that attended the informal meeting of the Working Group held on 3 March 2005. The Council requested the secretariat to continue its consultations with the Government of Egypt to resolve the outstanding issues by the June 2005 session, and to provide updates on this issue at informal meetings of the Working Group prior to the next session.

With respect to the non-compliance by the Governments of Liberia, Senegal and the former Yugoslav Republic of Macedonia with the requirements of decisions 18 and 48, the Council considered the updated information note prepared by the secretariat, dated 15 November 2004, and the discussions held with the delegations from the Governments of Senegal and the former Yugoslav Republic of Macedonia that attended the informal meeting of the Working Group held on 26 January 2005. The Council requested the secretariat to continue its consultations with the Governments involved, and to provide an update on this matter at an informal meeting of the Working Group.

After considering the matter of unlocated claimants in the light of the updated information note prepared by the secretariat, dated 10 November 2004, the Council referred the matter to an informal meeting of the Working Group and kept it on the Council's agenda.

Finally, the Council addressed the issue of possible duplicate awards in the light of an information note prepared by the secretariat dated 25 February 2005, and the presentation made by the secretariat, and noted that the secretariat will provide further information on this issue for the Working Group's continued consideration at a future informal meeting. The Council will continue to examine this issue closely, as a matter of priority, in conjunction with the secretariat.

The Council continued its consideration of the issue of the payment of an award for a directly submitted claim in the light of an information note dated 6 December 2004, and referred this matter to an informal meeting of the Working Group.

The Council finalized its consideration of interest on awards and adopted decision 243 (S/AC.26/Dec.243 (2005)) concerning this issue. With respect to the matter of claims preparation costs, the Council referred the issue to a future informal meeting of the Working Group and decided to keep it on the Council's agenda.

The Council considered the audit review of Compensation Commission activities in the light of an information note containing the Office of Internal Oversight Services audit report, and the secretariat's response thereto, on part two of the third instalment of F3 claims, dated 15 November 2004; the report of the Board of Auditors on the financial statements of the Compensation Commission for the biennium 2002-2003 and the secretariat's response thereto; the Office of Internal Oversight Services audit report, and the secretariat's response thereto, concerning the tenth instalment of E1 claims, dated 16 December 2004 and 7 January 2005; and the Office of Internal Oversight Services audit report and the secretariat's response

thereto, concerning part three of the nineteenth instalment of D1 claims, dated 16 December 2004 and 6 January 2005, respectively. The Council referred the issue of audit review to an informal meeting of the Working Group, and kept the matter on its agenda.

After considering the issue of the phasing out of the Compensation Commission in the light of an information note prepared by the secretariat, dated 11 November 2004, and further information provided by the secretariat, the Council noted with approval the proposal made in the information note concerning the work of the Commission in the period 2006-2007, and that the secretariat is preparing a budget proposal for the biennium 2006-2007 on that basis, to be submitted to the Council prior to the June 2005 session. The Council decided that it would further consider the post-2007 period in the future.

The Council considered the issues of the fees for processing costs deducted from payments, and the technical assistance provided to Iraq with respect to the F4 environmental claims, in the light of information notes prepared by the secretariat dated 2 March 2005 and 21 February 2005, and referred both of the issues to an informal meeting of the Working Group.

The Council considered the request from the Government of Kuwait for the filing of one claim under Governing Council decision 12 for the death of a Kuwaiti national resulting from the explosion of a landmine, and decided to accept the claim for filing, in accordance with the provisions of the Governing Council decision taken at the fiftieth session on decision 12 deadlines, which allow such claims to be accepted after the filing deadline of 31 October 2004, and referred the claim to the D1 Panel of Commissioners for review.

Finally, the Governing Council decided to hold its fifty-sixth session from 28 to 30 June 2005.

To date, the Commission has awarded compensation of approximately $52.1 billion, including the awards approved at the fifty-fifth session, of which approximately $19 billion has been made available to Governments and international organizations for distribution to successful claimants in all categories of claims. The payments for successful claims approved by the Council at the fifty-fifth session will be made in the next round of payments, in accordance with Governing Council decision 227, scheduled to take place on 7 April 2005. On 28 February 2005 the balance of the Compensation Fund was approximately $317.7 million.

(*Signed*) Tassos **Kriekoukis**
President of the Governing Council

Annex I

Summary of recommendations

A. Report and recommendations of the D1 Panel of Commissioners concerning the special instalment of deceased detainee claims filed pursuant to Governing Council decision 12 (S/AC.26/2005/1)

Table 1
Recommended awards for the deceased detainee claims

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	602	1	258 786 901.41	161 006 250.05

Table 2
Recommended awards for claims for personal injuries resulting from landmine explosions

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	2	—	251 211.07	134 551.34

Table 3
Recommended awards for category F claims

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Kuwait	—	1	37 537 778.00	—

B. Report and recommendations made by the D1 Panel of Commissioners concerning the late-filed category A and C claims programme (S/AC.26/2005/R.2)

Table 1
Recommended awards for category A claims

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
Iran	2 483	30	20 060 000.00	19 756 000.00
Pakistan	264	4	815 500.00	785 000.00
Philippines	199	41	950 500.00	793 500.00

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Sri Lanka	249	19	1 070 500.00	993 000.00
Total	**3 195**	**94**	**22 896 500.00**	**22 327 500.00**

Table 2
Recommended awards for category C claims

Submitting entity	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Pakistan	276	8	80 969 396.79	7 368 753.05
Philippines	46	19	279 338.94	151 191.96
Sri Lanka	139	6	448 418.54	232 217.03
Total	**461**	**33**	**81 697 154.27**	**7 752 162.04**

C. Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of Palestinian late claims for damages up to $100,000 (category C claims) (S/AC.26/2005/3)

Submitting entity	Number of claims recommended for payment	Number of claims not recommended for payment	Number of duplicate claims	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Palestine	4 417	203	104	226 866 203.14	70 221 890.04

D. Report and recommendations made by the Panel of Commissioners concerning the thirtieth instalment of E4 claims (S/AC.26/2005/4)

Table 1
Recommended awards for stand-alone claims

Number of Kuwaiti corporate claims recommended for payment	Number of Kuwaiti corporate claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
10	9	24 278 539	3 688 055

Table 2
Recommended awards for E2 corporate claims

Country	*Number of claims recommended for payment*	*Number of claims not recommended for payment*	*Amount of compensation claimed (US$)*	*Amount of compensation recommended (US$)*
United Kingdom	—	1	629 149	—

Annex II

Documents before the Governing Council at its fifty-fifth session

1. Report and recommendations of the D1 Panel of Commissioners concerning the special instalment of deceased detainee claims filed pursuant to Governing Council decision 12 (S/AC.26/2005/1);
2. Decision concerning the special instalment of deceased detainee claims filed pursuant to Governing Council decision 12 (S/AC.26/Dec.237 (2005));
3. Report and recommendations of the D1 Panel of Commissioners concerning the late-filed category A and category C claims programme (S/AC.26/2005/2);
4. Decision concerning the late-filed category A and category C claims programme (S/AC.26/Dec.238 (2005));
5. Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of Palestinian late claims for damages up to $100,000 (category C claims) (S/AC.26/2005/3);
6. Decision concerning the fourth instalment of Palestinian late claims for damages up to $100,000 (category C claims) (S/AC.26/Dec.239 (2005));
7. Report and recommendations made by the Panel of Commissioners concerning the thirtieth instalment of E4 claims (S/AC.26/2005/4);
8. Decision concerning the thirtieth instalment of E4 claims (S/AC.26/Dec.240 (2005));
9. Fourth special report and recommendations made by the merged E4 Panel of Commissioners concerning overlapping claims (S/AC.26/2005/5);
10. Decision concerning the fourth special report on overlapping claims (S/AC.26/Dec.241 (2005));
11. Twenty-ninth report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/2005/6);
12. Decision concerning corrections of awards pursuant to article 41 of the Provisional Rules for Claims Procedure (S/AC.26/Dec.242 (2005));
13. Decision concerning awards of interest (S/AC.26/Dec.243 (2005));
14. Decision concerning the claims of 10 deceased detainees (S/AC.26/Dec.244 (2005)).